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Wm. M. Haubert

CP

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-190698

DATE: April 6, 1978

MATTER OF: Edward F. Miller - Travel Expenses

- DIGEST:**
1. Employee was authorized to travel between various sites in Hawaii in order to perform official business while on annual leave in Hawaii, and was reimbursed for travel expenses incident thereto. Additional claim for reimbursement of round-trip travel between official duty station and Hawaii is denied since such travel was not authorized.
 2. Employee performed authorized official business which interrupted his scheduled leave. Where employee performed official duty on a Friday and the following Monday without taking leave on either day, the employee is entitled to per diem for the intervening weekend under section 6.5a(2) of the Standardized Government Travel Regulations (SGTR), OMB Circular A-7, August 17, 1971. On other days when leave status terminated at 7:30 a.m., however, employee is entitled only to per diem beginning with second quarter of day since under SGTR section 6.5(1) per diem begins during quarter day leave terminates.
 3. Employee authorized to rent automobile on official business took annual leave while retaining rented vehicle. Rental charges for days employee was on leave may not be reimbursed since SGTR section 1.3 OMB Circular A-7, August 17, 1971, confined travel expenses to those necessary to transact official business, and no official business was transacted on those days.

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4. Employee paid collision damage waiver premium incident to rental of automobile. That fee may not be reimbursed since SGTR section 3.2c, OMB Circular A-7, August 17, 1971, expressly prohibits payment of such costs.

By a letter dated September 25, 1977, Mr. Edward F. Miller has appealed that portion of a settlement issued by our Claims Division which denied his claim for reimbursement of certain travel expenses incurred while performing temporary duty in Hawaii.

At all times relevant to this action, Mr. Miller was employed by the Department of the Interior, Office of Saline Water. During the months of January, February, and March of 1973, Mr. Miller vacationed in the State of Hawaii for about an 8-week period. While vacationing in Hawaii, Mr. Miller traveled to various sites in the Hawaiian Islands pursuant to travel order no. PSA-73-278 dated January 4, 1973, for the purpose of performing various duties for his employing agency. That travel order authorized per diem not to exceed \$25 per day, transportation by common carrier, and hire of special conveyances. A memorandum dated November 30, 1972, to Mr. Miller from the Chief, Desalting Application and Project Development Division, outlines Mr. Miller's tasks and entitlements as follows:

"With respect to your assistance in the Hawaii Study, as agreed, we would provide normal per diem and other allowable costs for those days we mutually agree that are needed for this study during your planned period of stay in January and February 1973 in that State. It is our estimate that approximately 10 days will be needed overall to initiate the work and carry out required field visits in the Islands."

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Upon completion of the temporary duty assignment, Mr. Miller submitted a claim to the Department of the Interior for reimbursement of per diem and local travel expenses. A portion of the per diem was administratively disallowed on the basis that a reduced per diem rate was applicable for days on which lodging was allegedly not required. Certain taxicab fares were disallowed on the grounds that they were incurred for personal rather than official business reasons. Similarly, a portion of certain car rental expenses was disallowed as being attributable to the claimant's use of the vehicles for personal reasons. Mr. Miller then reclaimed the disallowed items and, in addition, claimed reimbursement of round-trip travel between his official station, Denver, Colorado, and Honolulu, Hawaii. The matter was referred to our Claims Division for its determination. On February 18, 1976, the Claims Division issued a settlement certificate allowing a portion of Mr. Miller's claim, and disallowing the remainder. The present appeal ensued.

The Claims Division disallowed Mr. Miller's claim for the cost of travel from Denver to Honolulu and return on the grounds that such travel was not authorized or approved, as required by section 1.5 of the Standardized Government Travel Regulations (SGTR), OMB Circular A-7, August 17, 1971, which was in effect at the time of the claimant's travel. Mr. Miller has conceded that such travel was not authorized, but contends that it should have been authorized in view of the amount of official business which he performed while in Hawaii. Section 1.5 of the SGTR governs this situation and provides as follows:

"Authority for travel. Except as otherwise provided by law all travel will be either authorized or approved by the head of the agency or by an official to whom such authority has been delegated. Ordinarily an authorization will be issued prior to the incurrence of the expenses which specifies the travel to

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be performed as definitely as possible in the circumstances."

The general rule is that when an employee proceeds to a point away from his official duty station on annual leave he assumes the obligation of returning himself thereto at his own expense. Matter of Richard G. Kaiser, B-182499, January 19, 1976. The record shows that Mr. Miller was authorized to travel from Honolulu, Hawaii, to Kailua-Kona and various other sites in the State of Hawaii. There was, therefore, no authorization, nor was there any obligation on the part of the Government to either authorize or reimburse Mr. Miller for travel between his official duty station and the State of Hawaii. Accordingly, the denial of round-trip travel expenses is sustained.

Concerning Mr. Miller's claim for per diem, the Claims Division allowed payments totalling \$58.50 for per diem on January 19 and 22, 1973 and February 16, 22, and 23, 1973. However, additional per diem was disallowed as follows:

"Regarding your claim for additional per diem for the periods of January 15 to January 18, February 12 to February 15, February 21 to February 22, February 28 to March 1, January 22, and February 9, it appears that the Department of the Interior allowed per diem for 3 3/4 days, 3 3/4 days, 1 3/4 days, 1 3/4 days, 3/4 day, and 3/4 day, respectively. These computations do not appear to be incorrect."

Mr. Miller's claim for an additional 1/4 day per diem for each of the quoted periods was denied since in each instance the time periods were immediately preceded by a weekend or annual leave. Regulations governing interruptions of per diem entitlement were contained in SGTR section 6.5 at the time Mr. Miller's travel was performed, and provide in pertinent part as follows:

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"6.5 Interruptions of per diem entitlement. a. Leave and nonworkdays. (1) Generally. Except as provided in (2) and (3) below, if the time that leave of absence begins or terminates is within the traveler's prescribed hours of duty, per diem in lieu of subsistence expenses will terminate at the beginning of the next quarter day, or begin with the quarter day during which the leave of absence terminates. If leave of absence does not begin or terminate within the traveler's prescribed hours of duty, the traveler will be entitled to per diem in lieu of subsistence expenses until midnight of the last day preceding the leave of absence and from 12:01 a.m. of the day following the leave of absence.

"(2) Nonworkdays. A traveler will be considered to be in subsistence status on nonworkdays unless he returns to his official station or place of abode from which he commutes daily to his official station, or unless he is in a leave status at the end of the workday preceding the nonworkday(s) and at the beginning of the workday following the nonworkday(s) and the period of leave on either of those days exceeds one-half of the prescribed working hours for that day: Provided, That subsistence may not be paid for more than two nonworkdays where the leave of absence is immediately preceded and followed by nonworkdays."

The record indicates that although Mr. Miller was in a duty status on Friday, January 19, 1973 and Monday, January 22, 1973, and again on Friday, January 9, 1973, and Monday, February 12, 1973, he did not receive per diem for the intervening weekend or for the first quarter day on Monday. Under SGTR section 6.5a(?) however an

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employee is considered in subsistence status for non-workdays when he is not in a leave status before and after the nonworkdays. Since Mr. Miller was in a duty status during the above-cited Fridays and Mondays, pursuant to SGTR section 6.5a(2), he is entitled to full per diem for January 20 and 21, 1973, February 10 and 11, 1973, and for 1/4 day per diem on January 22 and February 12, 1973. With respect to Mr. Miller's claim for an additional 1/4 day per diem on January 15, and February 9, 21, and 28, 1973, the rule of SGTR 6.5a(1) is for application. That section provides that when leave of absence terminates within the employee's prescribed tour of duty, per diem expenses will begin with the quarter day during which the leave terminates. Since Mr. Miller's workday did not begin until 7:30 a.m., and since Mr. Miller was in a leave status prior to such time, there is no basis under the applicable regulation for the payment of per diem for the period of 12 midnight to 6 a.m. on each of the above 4 days. In this respect, therefore, the settlement issued by the Claims Division is sustained.

Concerning Mr. Miller's claim for additional reimbursement of charges for car rental, the Claims Division allowed the claim in the amount of \$51.31. Regarding a car rented from February 21-28, 1973, the employing agency allowed rental expenses for 3 days, denying reimbursement of the balance on the basis that no official duty was performed during the remainder of that period. The Claims Division concurred in that determination. Similarly, the Claims Division denied Mr. Miller's claim for car rental for the period from February 17-19, 1973, on the grounds that no Government business was transacted which would have required use of the vehicle. On appeal, Mr. Miller contends that in each case he was required by official business to remain on location and that it was not possible for him to return the vehicle to the rental agency. The regulations governing this situation, however, provide in SGTR section 1.3 as follows:

"1.3 Reimbursable expenses. Traveling expenses which will be reimbursed are

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confined to those expenses essential to the transacting of the official business."

It appears that Mr. Miller was in an annual leave status on each of the days for which he presently claims reimbursement of car rental fees. Since official business was not transacted on those days, there is no authority for reimbursement of the above-cited car rental expenses. Accordingly, the Claims Division settlement in this respect is sustained.

In connection with the rental of automobiles, Mr. Miller paid to the rental companies a collision damage waiver premium. Reimbursement of this item was denied by the Claims Division on the basis that the regulations specifically prohibit the payment of such costs. On appeal, Mr. Miller contends that his employer always allowed reimbursement of that expense. Section 3.2c of the SGTR provides:

"Damage waiver on rental automobiles
In connection with the rental of automobiles from commercial sources the Government will not pay nor will it reimburse employees for the cost of the collision damage waiver or collision damage insurance available in commercial rental contracts for an extra fee. The waiver or insurance referred to is the type offered a renter to release him from liability for damage to the rented automobile in amounts up to the amount deductible (usually \$100) on the insurance included as a part of the rental contract without additional charge. Under decisions of the Comptroller General the agency in appropriate circumstances is authorized to pay for damage to the rented automobile up to the deductible amount as contained in the rental contract should the rented automobile be damaged while being used for official business."

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There is, therefore, no authority which would permit the reimbursement of collision damage waiver payments. B-172721, March 13, 1972. Accordingly, the settlement issued by our Claims Division is sustained as to this issue.

Finally, Mr. Miller has appealed the denial by the Claims Division of his claim for reimbursement of taxicab fares incurred on January 12, 1973, and January 17, 1973. As noted above, Mr. Miller's travel order authorized him to utilize special conveyances as advantageous to the Government. The record indicates, however, that the fare on January 12 was incurred while on annual leave for transportation from the post of arrival to the hotel in Honolulu. Since this fare was not incurred while on official business, it may not be paid. The taxicab fare on January 17, however, was incurred on official business for the purpose of obtaining the authorized rental vehicle for official travel. Since this fare was expressly authorized and incurred while performing Government business the \$12 fare incurred on January 17 may be paid.

Accordingly, a settlement will be made in the amount found due.

Acting

R. Z. Kettner
Comptroller General
of the United States

UNITED STATES GOVERNMENT

GENERAL ACCOUNTING OFFICE

Memorandum

TO : Director, Claims Division

April 6, 1978

FROM : Acting
Comptroller General *R. F. Kellin*

SUBJECT: Edward F. Miller - Travel Expenses - B-190698-O.M.

Returned herewith is your file Z-2525593 forwarded here on November 15, 1977, concerning the appeal by Mr. Edward F. Miller of your settlement of his claim for certain travel expenses.

We have by our decision of today, B-190698, copy attached, determined that Mr. Miller is entitled to additional reimbursement of full per diem for January 20 and 21, 1973, February 10 and 11, 1973, and for $\frac{1}{2}$ day per diem on January 22 and February 12, 1973. This determination is based on SGTR section 6.5a(2), OMB Circular A-7, August 17, 1971. In addition, Mr. Miller should be reimbursed a \$12 taxicab fare paid on January 17, 1973, which was incurred on official business, as authorized in his travel orders. In all other respects, the settlement is sustained.

Attachments

